

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
(WESTERN DIVISION)

C.A. No.: 2011-CV-30199

**ROBERT BAGG, DAVID CROTTY,  
KATHLEEN GEISSE, CRYSTAL DILLON, and  
LESLIE JOHNSTON, Individually and on Behalf  
of All Other Persons Similarly Situated,  
Plaintiffs,**

**v.**

**HIGHBEAM RESEARCH, INC., THE GALE  
GROUP, INC., and CENGAGE LEARNING,  
INC.,  
Defendants.**

**PLAINTIFFS' OPPOSITION (LIMITED) TO DEFENDANTS' MOTION TO DISMISS**

The Plaintiffs, by and through their attorneys, hereby provide a limited opposition to Defendants' Motion. Plaintiffs do not oppose Defendants' Motion to the extent that it requests a ruling that Illinois is the proper forum for this case. However, pursuant to the Court's authority and in fairness to Plaintiffs, Plaintiffs request that the relief be that the case is transferred to the United States District Court for the District of Illinois as opposed to outright dismissal. As grounds for this motion, Plaintiffs state as follows:

1. This case was filed on July 19, 2011.
2. On October, 28, 2011, Defendants moved to dismiss this case, arguing that a forum selection clause mandated that Illinois is the proper forum for this case.
3. Plaintiffs opposed that motion and the parties have been litigating issues related to Defendants' motion for almost one year.
4. Plaintiffs raised legitimate arguments in opposition to Defendants' Motion.

5. Plaintiffs could have filed a separate case in Illinois and continued to litigate the case in this forum; however, it would have been a waste of time, effort, energy, expense, and judicial resources to have a parallel case proceeding in two different forums.
6. Now, after Plaintiffs have been provided with discovery relating to Defendants' Motion to Dismiss, Plaintiffs are willing to concede, for purposes of Defendants' Motion only, that Illinois is the proper forum for this case.
7. There is no dispute that venue is proper in the United States District Court.
8. Plaintiffs are requesting that the case be transferred to the United States District Court for the District of Illinois.
9. The court has the authority to transfer the case, in lieu of dismissal. See *Stewart Org. Inc. v. Ricoh Corp.*, 487 U.S. 22, 24 (1988). See also 28 U.S.C. 1404(a).

WHEREFORE, Plaintiffs respectfully request that the action not be dismissed, but transferred to the United States District Court for the District of Illinois.

Dated: September 17, 2012

The Plaintiffs  
By Their Attorney:

**/s/ Jeffrey S. Morneau**  
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**CERTIFICATE OF SERVICE**

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (“NEF”) and paper copies will be sent to those indicated as non-registered participants on the date of its filing.

**/s/ Jeffrey S. Morneau**

Jeffrey S. Morneau